



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James Collins et al.
 Serial Number: 09/836,779
 Filed: April 17, 2001
 Title: Handle Configuration for Brush Production by Fusion
 Examiner: Theresa T Snider
 Group Art Unit: 1744
 Attorney Docket: 58659.P1

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 TO

AMENDMENT A

Mail Stop Non-Fee Amendment
 Commissioner for Patents
 P.O Box 1450
 Alexandria VA 22313-1450

Sir:

In response to the office action dated June 5, 2003, please amend the above-referenced application as follows:

REMARKS

Claims 1-30 are in the case and subject to a restriction requirement. Applicants hereby elect with traverse to prosecute the claims of Group II, including claims 10-15 and 27-31 (or 26-30 as they should be numbered). Thus, claims 1-9 and 16-26 (15-25) are withdrawn from consideration. Reconsideration is requested.

However, restriction is not required by 35 U.S.C. § 121, as suggested in the office action. Congress wisely granted the *discretion* to restrict applications. According to 35 U.S.C. § 121 "... the Commissioner *may* require the application to be restricted...." (emphasis added). Likewise, MPEP § 803 lists two criteria that must be present for restriction to be proper:

1. The invention must be independent or distinct; and
2. There must be a serious burden on the examiner if restriction is not required.